

## Surti Gupta Vs United India Insurance Company and Others

**Court:** Supreme Court of India

**Date of Decision:** March 17, 2015

**Acts Referred:** Penal Code, 1860 (IPC) - Section 279, 304A, 337

**Citation:** (2015) 2 ACC 354 : (2015) ACJ 1755 : (2015) 4 AD (SC) 280 : (2015) 3 AJR 243 : (2015) 3 ALD 189 : (2015) 110 ALR 528 : (2015) 2 AWC 1858 : (2015) 2 CDR 361 : (2015) 179 PLR 644 : (2015) 2 RCR(Civil) 595 : (2015) 3 SCALE 795 : (2015) 2 WLN 32

**Hon'ble Judges:** C. Nagappan, J.; V. Gopala Gowda, J.

**Bench:** Division Bench

**Advocate:** Sahil S. Chauhan and Abhay Kumar, for the Appellant; Vishnu Mehra, Sakshi Mittal and Manjeet Chawla, Advocates for the Respondent

**Final Decision:** Disposed Of

### Judgement

V. Gopala Gowda, J.

Delay condoned. Leave granted.

2. This appeal has been filed by the Appellant being dissatisfied with the impugned judgment and award dated 02.07.2012 passed in FAO No.

1647 of 1992 (O and M) by the High Court of Punjab and Haryana at Chandigarh wherein the High Court has awarded the compensation amount

of Rs. 6,30,000/- to the Appellant.

3. The relevant facts are stated hereunder to appreciate the case with a view to determine whether the Appellant is entitled for enhancement of

compensation amount as prayed in this appeal.

4. On the night intervening 9/10.07.1990 at around 12:30 a.m., Parmod Bala, mother of the Appellant, who along with five other passengers were

travelling in a Maruti Car bearing registration No. PBW-8399, met with an accident near Oasis Tourist Complex on G.T. Road near Uchana

village, Police Station Sadar Karnal, when a truck bearing registration No. PIB-5733 being driven rashly and negligently by Respondent No. 2

coming from the opposite direction collided with the said car. Parmod Bala succumbed to the injuries caused to her due to the accident on the

same day. An FIR No. 262 was registered on 10.7.1990 at the Police Station, Sadar Karnal Under Sections 279/337/304-A of the Indian Penal

Code against Respondent No. 2 herein.

5. The Appellant being the only surviving legal representative, who was the adopted child of the deceased, filed a claim petition No. 89 of 1990

before the M.A.C.T., Karnal seeking for compensation for the death of her deceased mother. The Appellant at the time of the accident was 15

years of age and was wholly dependent on her mother. The Tribunal by its award dated 11.11.1991 dismissed the said claim petition filed by the

Appellant on the ground that she could not prove to be a legal representative of the deceased.

6. Aggrieved by the said award of the Tribunal, the Appellant filed FAO No. 1647 of 1992 before the High Court of Punjab and Haryana at

Chandigarh. The High Court allowed the appeal filed by the Appellant and set aside the award of the Tribunal and awarded an amount of Rs.

6,30,000/- to the Appellant. The relevant portion of the judgment and award of the High Court is extracted hereunder to examine the break-up of

figures and calculation made by the High Court before arriving at the above said compensation amount of Rs.

6,30,000/- awarded under different

heads payable to the Appellant by the Respondent-Insurance Company.

At the time of death, the deceased was said to have been working as a teacher, drawing a salary of Rs. 4,214/-. She was 45 years of age and as

per the formula prescribed in the judgment of the Hon'ble Supreme Court in Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and

Another, the prospect of increase in salary must have been duly provided for by escalating the salary by another 30%. The average salary must be

Rs. 5,478/- and if 1/3rd deduction were to be made for the personal consumption of the deceased, the dependency for the Appellant must be

taken as Rs. 3,652/- per month. Providing for a multiplier of 14, the loss of dependency will be Rs. 6,13,536/-. To this sum shall be added the loss

to estate, funeral expenses and loss of love and affection, all of which, in my view, add to another 15,000/-. In all, the total amount of

compensation that become payable, shall be Rs. 6,28,536/-, which I round off to Rs. 6,30,000/-.

7. Being aggrieved of the compensation amount awarded by the High Court in its impugned judgment and award, the Appellant has filed this

appeal seeking for enhancement of compensation urging various grounds in support of her claim.

8. It is contended by the learned Counsel for the Appellant that the High Court has failed to appreciate the fact that at the time of the unfortunate

incident, the Appellant was only 15 years of age and since then i.e. for the last 25 years, the Appellant has been suffering from mental trauma, loss

of love and affection of her deceased mother and virtually lost the higher education and initial career building period of her life.

9. It is further contended by him that the High Court erred by awarding only an addition of 30% to the actual salary of the deceased at the time of

her death towards future income prospects by ignoring the fact that the deceased had a permanent job as a teacher in a Government school and

further the High Court has erred in taking the salary of the deceased at the time of her death at Rs. 4,214/- when the actual salary drawn was much

higher as she was working as a permanent teacher in a Government school.

10. On the other hand, the above contentions of the learned Counsel on behalf of the Appellant have been rebutted by the learned Counsel for the

Respondent-Insurance Company by contending that the High Court has passed a detailed and reasoned judgment and award after due application

of principles of law and after taking into consideration the legal principles laid down in the latest judgments of this Court on the above relevant

aspects of the case. Hence, the same does not require interference by this Court and prayed for dismissal of the appeal.

11. We have heard the learned Counsel for both the parties and also examined the facts and circumstances of the case and the evidence on

record. It is clear that the deceased at the time of her death was working as a teacher in a Government school. It has been observed by the High

Court that the Appellant had been adopted by the deceased, and was wholly dependent on her mother at the time of the accident. It has also been

observed by the High Court for the purpose of calculation of future loss of dependency of the Appellant that the deceased at the time of the

accident on 10.7.1990 was drawing a salary of Rs. 4,214/- per month and was 45 years of age. However, we are of the view that the salary of

the deceased at the time of her death taken by the High Court is on the lower side considering that she was employed as a permanent teacher in a

government school and she must have had at least 20-25 years of work experience at the time of her death. Therefore, on considering the facts,

circumstances, pleadings and evidence on record in the present case, we are of the view that it would be just and proper to take the monthly

income of the deceased at Rs. 6,000/- per month. Further, on addition of 30% to the income of the deceased towards future prospects as per the

principles laid down by this Court in the case of Smt. Sarla Verma and Others Vs. Delhi Transport Corporation and Another, , the monthly income

for the calculation of future loss of dependency of the Appellant would be Rs. 7,800/- (Rs. 6,000/- + 30% of Rs. 6,000/-). Therefore, the annual

income comes to Rs. 93,600/-. On deduction of 1/3rd of the annual income towards personal expenses and applying the appropriate multiplier as

per the principles laid down by this Court in the case of Sarla Verma (supra), the future loss of dependency suffered by the Appellant is calculated

at Rs. 8,73,600/- [(Rs. 93,600/- (-) 1/3rd of Rs. 93,600/-) X 14].

12. Further, the High Court has certainly erred in awarding a meagre amount of only Rs. 15,000/- for loss of estate, loss of love and affection and

funeral expenses. Therefore, we award Rs. 1,00,000/- towards loss of love and affection as per the decision of this Court in the case of Jiju

Kuruvila and Others Vs. Kunjamma Mohan and Others, . We also award an amount of Rs. 1,00,000/- towards loss of estate as per the

decision of this Court in the case of Kalpanaraj and Others Vs. Tamil Nadu State Transport Corpn., . Further, a sum of Rs. 25,000/- is awarded

towards funeral expenses as per the principles laid down by this Court in the case of Rajesh and Others Vs. Rajbir Singh and Others,

13. The High Court has further erred in awarding an interest at the rate of 6% per annum only, instead of 9% per annum on the compensation

amount as per the principles laid by this Court in the case of Municipal Corporation of Delhi, Delhi Vs. Association of Victims of Uphaar Tragedy

and Others, . We accordingly award an interest at the rate of 9% per annum on the compensation amount.

14. In the result, the Appellant shall be entitled to compensation under the following heads:

Thus, the total enhanced compensation payable to the Appellant by the Respondent-Insurance Company will be Rs. 10,98,600/- with interest at

the rate of 9% p.a. from the date of filing of the application till the date of payment. The Respondent-Insurance Company shall either pay by way

of demand draft in favour of the Appellant or deposit the same with interest as awarded, before the Motor Accidents Claims Tribunal, Karnal,

after deducting the amount already paid to the Appellant, if any, within six weeks from the date of receipt of the copy of this judgment.

The appeal is allowed as per the above said directions. No Costs.